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January 15, 2003

The Hon. Jeffrey W. Runge, M.D.
Administrator
National Highway Traffic Safety Administration
400 Seventh Street, S.W.
Washington, D.C.

Re: Supplemental Comments in Notice of Proposed Rulemaking on Confidential Business Information; Docket No. NHTSA-02-12150

Dear Dr. Runge:

On behalf of its tire manufacturer members, the Rubber Manufacturers Association submitted timely comments in the above-captioned rulemaking addressing revisions to 49 C.F.R. Part 512, which governs requests by manufacturers for the confidential treatment of business information submitted to the agency. In the NPRM, the agency proposed applying Part 512, as amended, to certain information submitted by tire and other covered manufacturers under the new early warning reporting regulations mandated by the Transportation Recall Enhancement, Accountability and Documentation Act ("TREAD Act"). As we explained in our initial comments, Section 3(b) of the TREAD Act clearly prohibits the automatic or routine disclosure of early warning information by the agency. This information is also exempt from disclosure under the Freedom of Information Act ("FOIA") and public policies governing the dissemination of competitively sensitive information by federal government agencies.

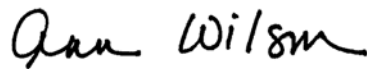
In reviewing the submissions of other parties in this proceeding, we are concerned with comments suggesting that NHTSA should simply follow its current policies and practices with respect to data that will soon be submitted to the agency under the new early warning reporting regulations. In fact, NHTSA's treatment of early warning data is an issue of first impression for the agency. It is a matter of first impression because, until passage of the TREAD Act, tire and other manufacturers had no obligation to provide NHTSA with quarterly reports summarizing warranty adjustments, property damage claims, and deaths and injuries. Further, the scope of the information to be provided under early warning is also unprecedented.

We believe that Section 3(b) of the TREAD Act clearly establishes how Congress intended early warning information to be handled. Under this provision, NHTSA is expressly *prohibited* from disclosing early warning information to third parties unless the Administrator determines, *on a case-by-case basis*, that:

1. The disclosure would assist in ensuring that manufacturers maintain proper records regarding the first purchasers of their products; or
2. The disclosure would assist in notifying the public of defect or non-compliance investigations conducted by the agency and the availability of consumer remedies.

Congress was wise to include this carefully-tailored non-disclosure provision in the TREAD Act. “Early warning” data is just that – *early* – and certainly preliminary to any determination by the agency or the manufacturer that a particular product may present a safety issue for consumers. Its submission to the agency is therefore not evidence of a product defect or a manufacturer’s non-compliance with a safety regulation. We urge NHTSA to keep this important distinction in mind as it considers revisions to 49 CFR Part 512 and other issues presented in this rulemaking.

Sincerely,

A handwritten signature in black ink that reads "Ann Wilson". The signature is written in a cursive, flowing style.

Ann Wilson
Senior Vice President